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**From:** Solloway, Chris  
**To:** Ex. 6 - Personal Privacy  
**Sent:** 7/15/2014 9:35:35 AM  
**Subject:** FW: Legacy Roads

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**From:** Chris Solloway, Ex. 6 - Personal Privacy  
**Sent:** Friday, July 11, 2014 6:10 PM  
**To:** Solloway, Chris  
**Subject:** Fwd: Legacy Roads

----- Forwarded message -----

**From:** **Solloway, Chris** <[Solloway.Chris@epa.gov](mailto:Solloway.Chris@epa.gov)>  
**Date:** Fri, Jun 13, 2014 at 6:13 PM  
**Subject:** RE: Legacy Roads  
**To:** "Carlin, Jayne" <[Carlin.Jayne@epa.gov](mailto:Carlin.Jayne@epa.gov)>  
**Cc:** **Ex. 6 - Personal Privacy**

Thanks, Jayne. Dave's emails are usually pretty informative....

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**From:** Carlin, Jayne  
**Sent:** Friday, June 13, 2014 5:51 PM  
**To:** Solloway, Chris  
**Subject:** Legacy Roads

While going through the thousands of emails for FOIA, I found the series of emails below which may be of interest to you.

Jayne Carlin, Watersheds Unit  
US EPA, Region 10  
1200 6th Ave, Suite 900 (OWW-134)  
Seattle, WA 98101-3140  
(206) 553-8512, (206) 553-0165 (fax)  
[carlin.jayne@epa.gov](mailto:carlin.jayne@epa.gov)

<http://www.epa.gov/r10earth/tmdl.htm>

**From:** DAUGHERTY Peter [<mailto:peter.daugherty@state.or.us>]  
**Sent:** Tuesday, June 04, 2013 5:25 PM  
**To:** Powers, David  
**Cc:** FOSTER Eugene P; ALDRICH Greg; ABRAHAM Kyle; Psyk, Christine  
**Subject:** RE: Oregon CNPCP -- Update on Schedule for NOAA and EPA Review

Dave,

Thanks for the phone message and follow up email. I will work with Greg Aldrich on conveying information describing Oregon's programmatic plan for addressing additional management measures for forestry.

Thanks again, Peter

Peter Daugherty  
Private Forests Division Chief  
Oregon Department of Forestry  
2600 State Street  
Salem, OR 97310  
Office (503) 945-7482

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**From:** Powers, David [<mailto:Powers.David@epa.gov>]  
**Sent:** Tuesday, June 04, 2013 1:17 PM  
**To:** DAUGHERTY Peter  
**Cc:** ALDRICH Greg; ABRAHAM Kyle; Psyk, Christine; FOSTER Eugene P  
**Subject:** RE: Oregon CNPCP -- Update on Schedule for NOAA and EPA Review

Peter – I wanted to follow-up on my voice message to you regarding your questions about legacy roads. I also would appreciate receiving any information you have pulled together describing ODF's programmatic plan for addressing additional management measures for forestry in advance of our June 13<sup>th</sup> meeting (even if it's an outline or summary).

By legacy roads EPA means forest roads that do not meet current State requirements with respect to siting, construction, maintenance, and road drainage. Legacy roads could be temporarily (abandoned) or permanently (orphaned) not in use or include forest roads currently being used for active silvicultural operations. The definition of legacy road is less important to EPA than having a State CNPCP that ensures the subset of forest roads contributing to water quality or beneficial use impairment are identified and addressed within a reasonable timeframe.

Your voice message provided an example of roads where vegetation now occupies a road not in use. If trees and vegetation have grown in on a forest road and forest road conditions and associated road drainage features will ensure road stability, stream integrity at road crossings, and prevent impacts from road runoff into surface waters there would be no expectation or need to address that "legacy" road.

I've attached correspondence previously sent by EPA and NOAA to the State that provides more detailed information related to additional management measures for forest roads, high risk landslide areas, and protection of small and medium streams, including Type N Streams.

Let me know if you have any questions.

Thanks, Dave

David Powers  
Regional Manager for Forests and Rangelands  
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805 SW Broadway, Suite 500  
Portland, OR 97205  
[powers.david@epa.gov](mailto:powers.david@epa.gov)  
[503-326-5874](tel:503-326-5874)

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**From:** DAUGHERTY Peter [<mailto:peter.daugherty@state.or.us>]  
**Sent:** Thursday, May 30, 2013 2:44 PM  
**To:** Powers, David  
**Cc:** ALDRICH Greg; ABRAHAM Kyle; Psyk, Christine  
**Subject:** FW: Oregon CNPCP -- Update on Schedule for NOAA and EPA Review  
**Importance:** High

Dave,

I hope this email finds you well. ODF has agreed to develop and document a programmatic plan in lieu of the IR TMDL to address the additional management measures for forestry (see attached document from Christine Psyk). The third bullet under forestry measures states that we need to identify BMPs that “effectively address the impacts of road operation and maintenance, particularly *legacy roads* (*emphasis added*). Being relatively new to this process, I am unsure of what the EPA means when it uses the term, “legacy roads.”

Looking at past documentation, I have found several definitions of the term.

The 2000 FPAC Report: ODF considers “legacy” roads to be synonymous with “abandoned” roads (also not defined in the FPA). Regardless of when a road was built, if it has been used for hauling logs or forest management since 1972 it is subject to the FPA. By this definition one could make an assumption that roads built prior to 1972 and not used since then are “legacy” roads.

In the Roads section of the FPAC report there is this definition: “Legacy roads includes those built prior to 1972 and not used since then (and therefore not subject to the current FPA regulations). “Old” roads are those built prior to the 1983 rule changes. The report also goes on to state that “legacy” roads often supports stands of trees and it would be necessary to reconstruct the road in order to repair the segment in question.

The 1999 IMST Forestry Project Report: “Legacy” roads are those roads constructed before the current OFPA standards were in place. By this definition roads constructed prior to standards in place in 1999 and not reconstructed since are “Legacy” roads.

Please provide clarification on how the EPA defines the term, “legacy roads.” Please let me know if you have any questions.

Thanks, Peter

Peter Daugherty  
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Oregon Department of Forestry  
2600 State Street  
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**From:** Psyk, Christine [<mailto:Psyk.Christine@epa.gov>]  
**Sent:** Wednesday, May 29, 2013 9:37 AM  
**To:** ALDRICH Greg; SNOW Patty  
**Cc:** Opalski, Dan; [pedersen.dick@deq.state.or.us](mailto:pedersen.dick@deq.state.or.us); DAUGHERTY Peter; [kcoba@oda.state.or.us](mailto:kcoba@oda.state.or.us); BELL Paul C; [foster.eugene@deq.state.or.us](mailto:foster.eugene@deq.state.or.us); WHITMAN Richard M \* GOV; RUE Jim; Joelle Gore - NOAA Federal; [margaret.davidson@noaa.gov](mailto:margaret.davidson@noaa.gov); [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov); Powers, David; Carlin, Jayne; Croxton, Dave; Wu, Jennifer  
**Subject:** Oregon CNPCP -- Update on Schedule for NOAA and EPA Review

Dear Greg and Patty:

Thank you and others from the State for taking the time to meet with us on May 1, 2013, to discuss the status of Oregon’s Coastal Nonpoint Pollution Control Program (CNPCP). The purpose of this communication is to outline NOAA and EPA’s expectations for how to proceed to fulfill the obligations we have under the Settlement Agreement with plaintiffs. As you know, that Settlement Agreement requires NOAA and EPA to propose full approval or disapproval of Oregon’s CNPCP in the Federal Register by November 15, 2013. Based on information we received from Oregon on May 1st, it is our understanding that Oregon intends to submit a description of a programmatic plan in lieu of the IR TMDL to address the additional management measures for forestry. We look forward to receipt of this submittal. Please remember that Oregon must show how it has back-up enforcement authority to ensure implementation of the forestry measures.

The attached document provides an updated description of what NOAA and EPA need from Oregon in order to fully approve Oregon’s CNPCP and address all remaining conditions, including additional management measures for forestry. It reiterates what NOAA and EPA have communicated in previous correspondence and meetings and provides a few updates based on the latest information we have on how the State plans to address its remaining conditions. As we have noted previously, NOAA and EPA need to receive all materials and documents that

Oregon plans to submit in support of its CNPCP for our review no later than July 1, 2013, so that we can assess the approvability of the State's CNPCP.

Additionally, as we discussed during the May 1<sup>st</sup> meeting, while NOAA and EPA have given Oregon interim approval for many conditions in the CNPCP, including agriculture, those preliminary decisions are not final as they have not gone out for public comment and final Agency action. To make a final decision, we will review all the information we have, including the latest comments received from interested parties, as well as additional comments that may come in during the public comment period about our proposed decision. Since many of the interim approvals were issued in 2004 or 2008, we need to make sure they still accurately reflect Oregon's program and include the most relevant and up-to-date information for how the state has satisfied the conditions on its program. NOAA and EPA are currently finalizing our review of the existing rationales and information we have and will provide you with a draft of these materials by the end of May. We ask that you also review the rationales and provide us with updated information and rationales, as appropriate, by July 1<sup>st</sup>.

I want to reiterate the importance of receiving the information and plans the State would like NOAA and EPA to evaluate. We will review all information received and determine if Oregon has either met the remaining conditions on its program or provided a sound alternative strategy and realistic timeline for addressing its remaining conditions to warrant NOAA and EPA to consider exploring an extension to the Settlement Agreement deadlines with the Northwest Environmental Advocates.

Finally, I want to apologize that we did not think to include NMFS in our meeting with the Governor's Office. NOAA's Office of Ocean and Coastal Resource Management is facilitating further discussions with NMFS regarding the ESA issue. Those conversations are currently underway and we plan to invite NMFS to the next meeting with the Governor's Office.

In closing, NOAA and EPA are committed to working closely with Oregon as we evaluate Oregon's CNPCP. As indicated above, absent a strategy to fully meet the remaining measures and agreement from plaintiffs for a schedule extension, NOAA and EPA will need to issue in the Federal Register our proposed decision on whether to approve or disapprove Oregon's CNPCP by November 15, 2013. If the record submitted by the State does not address the management measures adequately, NOAA and EPA will not be able to fully approve the program. Obviously, we would like to make the best effort with you to get to an outcome that supports approval.

Best Regards, Christine

Christine Psyk

Associate Director, R10 OWW

206-553-1906

psyk.christine@epa.gov